

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

11 MILO WAYNE STRAUSBAUGH, ) No. ED CV 10-00818-TJH (VBK)  
12 Petitioner, )  
13 v. ) ORDER (1) ACCEPTING AND ADOPTING  
14 OCHOA, ) THE REPORT AND RECOMMENDATION OF  
15 Respondent. ) THE UNITED STATES MAGISTRATE  
 ) JUDGE, AND (2) DISMISSING THE  
 ) PETITION FOR WRIT OF HABEAS  
 ) CORPUS  
 )  
 )

17 Pursuant to 28 U.S.C. §636, the Court has made a de novo review  
18 of the Petition for Writ of Habeas Corpus ("Petition"), Respondent's  
19 Answer, Petitioner's Reply, all of the records herein and the Report  
20 and Recommendation of the United States Magistrate Judge ("Report").

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**IT IS ORDERED** that: (1) the Court accepts and adopts the Report and Recommendation, (2) the Court declines to issue a Certificate of Appealability ("COA");<sup>1</sup> and (3) Judgment be entered denying and dismissing the Petition with prejudice.

DATED: April 6, 2011

~~TERRY J. HATTER, JR.~~  
~~SENIOR UNITED STATES DISTRICT JUDGE~~

<sup>1</sup> Under 28 U.S.C. §2253(c)(2), a COA may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." The Supreme Court has held that, to obtain a Certificate of Appealability under §2253(c), a habeas petitioner must show that "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further'." Slack v. McDaniel, 529 U.S. 473, 483-84, 120 S.Ct. 1595 (2000)(internal quotation marks omitted); see also Miller-El v. Cockrell, 537 U.S. 322, 336, 123 S.Ct. 1029 (2003). After review of Petitioner's contentions herein, this Court concludes that Petitioner has not made a substantial showing of the denial of a constitutional right, as is required to support the issuance of a COA.